HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.5466 of 2001

Dated 31st day of October, 2007

Between:

Yadavallivari Choultry,
rep. by its Executive Officer,
Kothapeta, Guntur ..
Petitioner

And

Tarigoppula Shiva Kumar
and two others .. Respondents

O R D E R:

This writ petition is filed seeking a mandamus to declare that the 3rd respondent-Principal Senior Civil Judge, Guntur has no jurisdiction to entertain O.S.No.319 of 2000 filed by the 1st and 2nd respondents and prohibit him from proceeding with the suit.

The case of the petitioner-Choultry is that respondents 1 and 2 herein filed O.S.No.319 of 2000 on the file of the Principal Senior Civil Judge, Guntur against it seeking permanent injunction. The petitioner, who is the 1st respondent in the suit, has filed this writ petition seeking to prohibit the Principal Senior Civil Judge, Guntur from entertaining the suit on the ground that he has no jurisdiction. During the pendency of this writ petition, the petitioner subjected itself to the jurisdiction of the trial Court and filed an application under Order 14, Rules 1 and 2 (2) and Section 151 CPC to decide the maintainability of the suit and also the jurisdiction. Now, the petitioner's grievance is that the application filed by it was returned on the ground that the writ petition filed by the petitioner is pending.

Heard the learned counsel for both the parties and perused the material placed on record.

No doubt, this Court is competent to issue a writ of prohibition. As the petitioner subjected itself to the jurisdiction of the trial Court and filed the application to decide the same, the trial Court is hereby directed to accept the application, number it and decide it as a preliminary issue by giving a finding about the maintainability of the suit within a period of six months from the date of receipt of a copy of

this order.

With the above observation, this writ petition is disposed of. No costs.

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31.10.2007

bcj